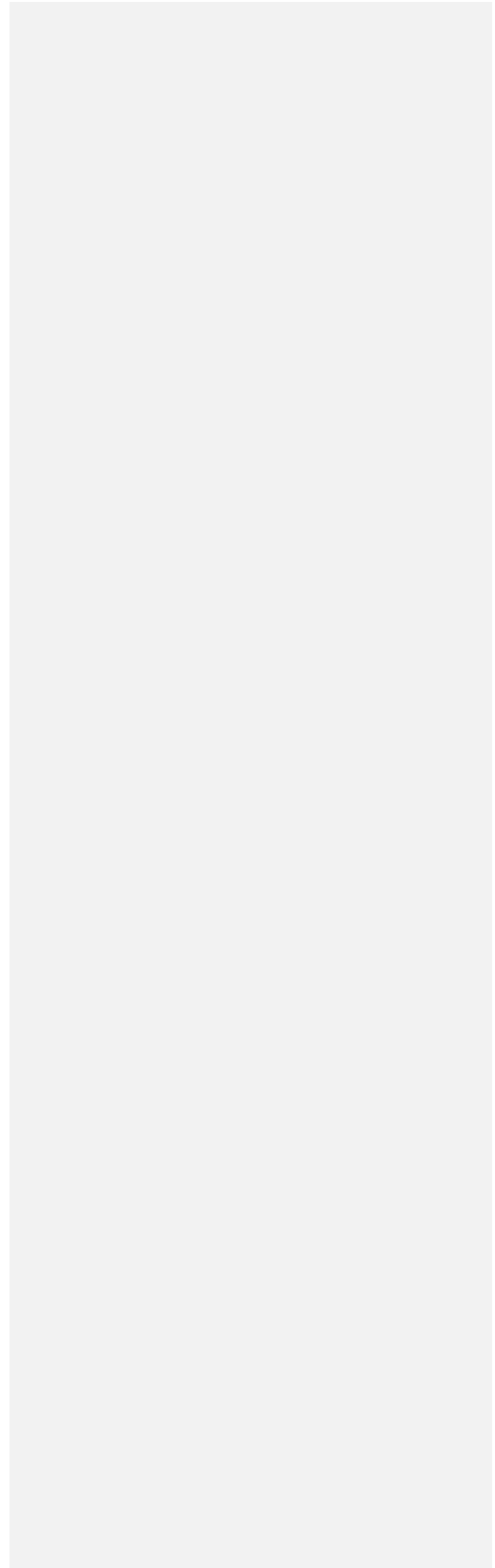




VEXATIOUS COMPLAINTS PROCEDURE



Document Review History

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Version: 1.0
Amended by: Clerk
Details of amendment(s): Based on SLCC procedure (2019).

Version: 1.1

Amended by: Administration Officer

Details of amendment(s):

[Throughout – amended to focus on complainant behaviour, not the complainant](#)

[Throughout – removed uppercase C from ‘council’](#)

[Throughout – references to Communications Committee removed](#)

[1.1 Removed ‘either individually or as part of a group’](#)

[1.3 Amended to ensure compliance with statutory obligations](#)

[1.4 Replaced ‘wasteful of resources’](#)

[2.4 Caveat for disclosure to district/county councils added to align with GDPR](#)

[3.3 Examples updated to align with legislation, policy and procedure, and to ensure clarity around when these behaviours become ‘unreasonable’](#)

[4.8 - 4.10 Right to request a review/appeal added](#)

[4.11 Added ‘except where required by law or where new information is presented’](#)

[4.12 Examples of ‘extreme behaviour’ added](#)

[5.1 Reworded for clarity](#)

[5.2 Replaced ‘him or her’ with ‘their behaviour’](#)

[6.1 Added ‘Restrictions will not continue indefinitely without active review’](#)

[7.3 Added clause regarding retention of data](#)

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VEXATIOUS COMPLAINTS PROCEDURE

A policy for dealing with abusive, persistent or vexatious complaints and complainants

1. INTRODUCTION

1.1 This policy identifies situations where the behaviour of a complainant, or a group of complainants, might be considered to be habitual or vexatious. The following clauses form the council policy for ways of responding to these situations.

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1.2 In this policy the term habitual means 'done repeatedly or as a habit'. The term vexatious is recognised in law and means 'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'. This policy intends to assist in identifying and managing persons who seek to be disruptive to the council through pursuing an unreasonable course of conduct.

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1.3 This policy applies to the management of unreasonable complainant behaviour in relation to complaints made to the council. It does not affect the council's statutory obligations under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the UK General Data Protection Regulation (UK GDPR), or the Data Protection Act 2018. Requests made under those legislative frameworks will be considered in accordance with the relevant legislation.

Deleted: 1.3 The term complaint in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998 and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts.

1.4 Habitual or vexatious complaints can be a problem for Council staff and members. The difficulty in handling such behaviour is that it is time consuming and can place a disproportionate demand on council resources, reducing the council's ability to deal with other council matters fairly and efficiently. While the council endeavours to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

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1.5 Raising of legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to behaviour being regarded as a vexatious or unreasonably persistent. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause their behaviour to be labelled vexatious or unreasonably persistent.

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1.6 The aim of this policy is to contribute to the overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.

2. HABITUAL OR VEXATIOUS COMPLAINANTS

2.1 For the purpose of this policy the following definitions of habitual or vexatious complainants will be used:

- The repeated and/or obsessive pursuit of:*
(1) *unreasonable complaints and/or unrealistic outcomes;*
and/or
(2) *reasonable complaints in an unreasonable manner.*

2.2 Prior to considering its implementation the council will send a *summary* of this policy to the complainant to give them prior notification of its possible implementation.

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2.3 Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 3, [the clerk or Full Council] will seek agreement to treat the complaints as habitual or vexatious and for the appropriate course of action to be taken. Section 4 details the options available for dealing with habitual or vexatious complaints.

2.4 The clerk, on behalf of the council, will notify complainants in writing of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken. Where appropriate and necessary for the management of council business, district/county councillors will also be informed that a constituent's behaviour has been designated as habitual or vexatious.

2.5 The application of this policy will be kept under review. If the complainant subsequently demonstrates a more reasonable approach, the council will review whether the restrictions remain necessary and proportionate.

3. DEFINITIONS

3.1 The council recognises that, in a small number of cases, the behaviour of a complainant may become vexatious because of the frequency, nature, or manner of their contact with the council. Such behaviour may hinder the council's ability to consider their complaint, or the complaints of others, fairly and efficiently. Where this occurs, the council may apply this policy to manage the behaviour in a proportionate and consistent manner.

3.2 Examples of vexatious behaviour may include the way in which, or the frequency with which, a complainant raises their concerns with the council, or how they respond when informed of the council's decision about a complaint.

3.3 The following are examples of behaviours that may be considered vexatious. The list is not exhaustive, and a single example on its own will not normally result in this policy being applied. The council will consider the circumstances of each case before deciding whether the behaviour is unreasonable.

Examples of unreasonably persistent of vexatious behaviour include: Pursuing complaints that appear to have insufficient or no grounds, and which are intended primarily to cause disruption or annoyance. Have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious)

- Refusing to specify the grounds of a complaint despite offers of assistance
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure
- Refusing to accept that issues are not within the power of the council to investigate, change or influence
- Insisting on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (e.g. Insisting that there must not be any written record of the complaint)
- Making what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced
- Making an unreasonable number of contacts with the council, by any means in relation to a specific complaint or complaints
- Making persistent and unreasonable demands or expectations of staff and/or the

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Deleted: 2.5 The status of the complainant will be kept under review. If a complainant subsequently demonstrates a more reasonable approach, then their status will be reviewed. ¶

Deleted: 3.1 The Council defines unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the Council, hinder the Council's consideration of their or other people's complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant. ¶

3.2 Examples include the way in which, or frequency with which, complainants raise their complaints with staff or how complainants respond when informed of the Council's decision about the complaint. ¶

3.3 Features of an unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category): ¶

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complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to questions, frequent and/or complex letters, faxes, telephone calls or e-mails)

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- Harassing, verbally abusing, or otherwise seeking to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive, abusive, discriminatory, or threatening language, or publishing their complaints in other forms of media
- Raising subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- Introducing trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on
- Changing the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- Denying statements he or she made at an earlier stage in the complaint process
- ~~Secretly~~ recording meetings and conversations without the prior knowledge and consent of the other person(s) involved
- Pursuing the same issue simultaneously through multiple channels, organisations or individuals in a manner that is disproportionate, repetitive or unnecessarily duplicates the council's complaints process Refusing to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
- Making the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- Persistently approaching the council through different routes or other persons about the same issue
- Persisting in seeking an outcome which council has explained is unrealistic for legal or policy (or other valid) reasons
- Continuing to dispute established facts after they have been fully explained and no significant new evidence has been provided
- Complaining about or challenge an issue based on an historic and/or an irreversible decision or incident
- Combining some or all of these features.

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4. IMPOSING RESTRICTIONS

- 4.1 The council will ensure that the complaint is being, or has been, investigated properly according to the adopted complaints procedure.
- 4.2 In the first instance the clerk will consult with the chair of the council and chair of the personnel committee prior to issuing a warning to the complainant. The clerk will contact the complainant in writing, or by e-mail, to explain why this behaviour is causing concern and ask them to change this behaviour and outline the actions that the council may take if they do not comply.
- 4.3 If the disruptive behaviour continues, the clerk will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the council in future will be restricted. The personnel committee will make this decision and the clerk inform the complainant in writing of what procedures have been put in place and for what period.
- 4.4 Any restriction that is imposed on the complainant's contact with the council will be appropriate and proportionate and the complainant will be advised of the period of time over which that the restriction will be in place. In most cases restrictions will apply for

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between three to six months, but in exceptional cases this may be extended. In such cases the restrictions would be reviewed on a quarterly basis, or at the next Full Council Meeting.

4.5 Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Banning the complainant from making contact by telephone except through a third party e.g. a solicitor, a councillor or a friend acting on their behalf
- Banning the complainant from sending emails to individuals and/or all council officers and insisting they only correspond by postal letter
- Requiring contact to take place with one named member of staff only
- Restricting telephone calls to specified days and/or times and/or duration
- Requiring any personal contact to take place in the presence of an appropriate witness
- Letting the complainant know that the council will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff will be identified who will read future correspondence).

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4.6 When the decision has been taken to apply this policy to a complainant, the clerk will contact the complainant in writing to explain:

- Why the decision has been taken
- What action has been taken
- The duration of that action.

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4.7 The clerk will enclose a copy of this policy in the letter to the complainant.

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4.8 A complainant may request a review of the decision to apply this policy. Any request for a review must be made in writing to the clerk within 14 days of the date of the decision and should set out the reasons why the complainant believes the decision should be reconsidered.

4.9 The review will be carried out by three councillors provided they were not directly involved in making the original decision. Where this is not possible, the council will appoint an alternative appropriate person or committee to undertake the review.

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4.10 Following the review, the complainant will be notified in writing of the outcome. The decision reached following the review will be final.

4.11 Where a complainant continues to behave in a way that is unacceptable [the clerk/Full Council] may decide to refuse contact with the complainant, except where required by law or where new information is presented, and stop any investigation into his or her complaint.

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4.12 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, for example where threats, harassment, hate crime, criminal damage or other criminal offences are suspected, other options will be considered, e.g. the reporting of the matter to the police or taking legal action. In such cases, the complainant may not be given prior warning of that action.

5. NEW COMPLAINTS FROM COMPLAINANTS WHOSE BEHAVIOUR IS TREATED AS ABUSIVE, VEXATIOUS OR PERSISTENT

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5.1 Each new complaint from a person who has previously been managed under this policy will be treated on its own merits. [The clerk/Full Council] will decide whether any restrictions that have been applied before are still appropriate and necessary in relation to the new complaint. A blanket policy is not supported, nor ignoring genuine service requests or complaints where they are founded.

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5.2 The fact that a complainant's [behaviour](#) is judged to be unreasonably persistent or vexatious, and any restrictions imposed on [youncil's](#) contact with [them](#), will be recorded and notified to those who need to know within the [council](#).

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6. REVIEW

6.1 The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by [\[the clerk/Full Council\]](#), after three months, and at the end of every subsequent three months within the period during which the policy is to apply, or by the next Full Council Meeting. [Restrictions will not continue indefinitely without active review.](#)

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6.2 The complainant will be informed of the result of this review if the decision to apply this policy has been changed or extended.

7. RECORD KEEPING

7.1 The [clerk](#) will retain adequate records of the details of the case and the action that has been taken. Records will be kept of:

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- The name and address of each member of the public whose [behaviour](#) is treated as abusive, vexatious or persistent, or any other person who so aids the complainant
- When the restrictions came into force and ends
- What the restrictions are
- When the person and [council](#) were advised.

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7.2 Full Council [will](#) be provided with a regular report giving information about members of the public whose [behaviour](#) has been treated as vexatious/persistent as per this policy.

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[7.3](#) [Records will be retained in accordance with the council's Data Retention Policy and applicable data protection legislation.](#)

